

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Stephen J. Brown
Serial No.: 10/605,548
Title: NETWORKED HEALTH INFORMATION SYSTEM FOR MONITORING FOOD INTAKE
Filed: October 7, 2003
Attorney Docket No.: 7553.00100 / 03-1010
Examiner: Lubin, V.
Art Unit: 3626
In Response To: Office Action mailed May 24, 2010

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal by an attorney either of record or acting under 37 CFR 1.34.

REMARKS

Review is requested for the following reasons:

The Examiner has clearly made the following errors in the rejection(s).

1. The 112 rejection relating to lack of support for the new limitations is not proper. Support was provided in the prior response for the amended limitations. For example, paragraphs [0041] and [0046] were listed in support of the amendments. Paragraph [0041] provides that standardized reports indicating current condition and condition trends are sent to the health care professional. Paragraph [0046] indicates that the data is analyzed, processed and transmitted to the health care professional. Thus, the 112 rejection appears to be improper and should be reversed.

2. Chaco and/or Treatch do not teach or suggest, alone or in combination, each of the claimed limitations.

In particular, claim 1 provides the limitation that the video display is configured to display the health-related data to the person being monitored. Chaco is silent concerning the video display being configured to display health-related data to the person being monitored, as presently claimed. At best, Chaco teaches displaying information to a health care professional. Chaco does not teach or suggest health-related data being displayed to the person being monitored, as presently claimed. This claim

element was discussed in the previous response. However, no analysis has been provided in the Final Action.

Claim 1 also provides the limitation that the video display is configured to display graphs of the health-related data. Chaco is silent concerning the display of graphs of health-related data, as presently claimed. At best, Chaco appears to teach the display of patient data such as medication and/or dietary information. Chaco does not teach or suggest displaying graphs of health-related information, as presently claimed. This claim element was discussed in the previous response. However, no analysis has been provided in the Final Action.

Claim 1 also provides that the server produces analysis data from the health-related data, produces standardized reports comprising the analysis data, and transmits the reports to a health care professional associated with the person. Chaco is silent concerning producing analysis data from health-related data, as presently claimed. Chaco is also silent concerning producing standardized reports comprising the analysis data, as presently claimed. Chaco is also silent concerning the reports to a health care professional associated with the person, as presently claimed. At best, Chaco appears to describe information being forwarded to a database that may be accessed by nurses and doctors in a hospital. Chaco does not teach or suggest a server producing analysis data from health-related data, producing standardized reports comprising the analysis data, and transferring the reports to a health care professional associated with the person, as

presently claimed. While Treatch has been provided in an attempt to meet this limitation, it is unclear how Treatch interacts with the other elements provided. Some articulated rational must be provided (MPEP 2141 III). The mere conclusion presented falls short of the articulated rational standard required by the MPEP.

If the Pre-Appeal Board members find some way to interpret the claims and/or references in a way different than characterized above, Applicant's representative requests that the Board reopen prosecution. Applicant's representative also requests that the Examiner initiate a telephone interview (586-498-0670) in an effort to consider whether a modification to the claims is possible in order to be interpreted as discussed.

If any additional fees are due, please charge Deposit Account No. 50-0541.

Respectfully submitted,
CHRISTOPHER P. MAIORANA, P.C.

Christopher P. Maiorana
Registration No. 42,829
Phone No. (586) 498-0670

Dated: September 22, 2010

c/o Health Hero Network
Docket No.: 03-1010 / 7553.00100